

Application No. 09/195,105
Amendment dated November 14, 2009
Reply to Office Action of June 22, 2009

REMARKS

Applicant amended independent claims 1, 9, and 17 to further define Applicant's claimed invention. Support for the amendment to independent claims 1, 9, and 17 can be found in the specification at least on page 24, line 8 through page 25, line 2 and in FIG. 2. No new matter has been added.

In the Office Action, the Examiner rejected claims 1-27 under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 5,644,724 to Cretzler ("Cretzler") and further in view of U.S. Patent No. 5,774,872 to Golden et al. ("Golden"). Applicant notes that page 2, paragraph 3 of the Detailed Action only lists claims 1-17 as being under rejection. Applicant assumes that this was a typographical error and is treating the rejection as covering claims 1 to 24, 26 and 27. Applicant respectfully notes that claim 25 has not been addressed anywhere in the Detailed Action. Applicant respectfully requests that the next action address the patentability of the subject matter of claim 25 in the event that independent claim 9 is rejected.

Independent claim 1, as now amended, recites a tax reporting system wherein "a transaction number associated with and identifying the transaction is provided by said at least one tax register to the consumer," and with "a second communication link permitting the consumer to connect with said computer system at the state agency, said second communication link enabling the consumer to input said transaction number to said computer system and receive confirmation from the state agency whether the transaction associated with and identified by said transaction number has been properly reported." Independent claim 9 as now amended, recites a tax reporting system wherein "a transaction number associated with and identifying the transaction is provided by said at least one of a first computer and a register to the consumer," and with "a second communication link permitting the consumer to connect with said computer system at the state authorized entity, said second communication link enabling the consumer to input said transaction number to said computer system and receive confirmation from the state authorized entity whether the transaction associated with and identified by said transaction number has been properly reported."

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Independent claim 17, as now amended, recites a tax reporting system wherein "a transaction number associated with and identifying the transaction is provided by said tax register to the consumer," and with "a second communication link permitting the consumer to connect with said computer system at the state agency, said second communication link enabling the consumer to input said transaction number to said computer system and receive confirmation from the state agency whether the transaction associated with and identified by said transaction number has been properly reported." Neither Cretzler nor Golden, whether alone or in proper combination, teach or suggest such systems.

The Examiner contends that:

(1) "[i]t would have been obvious to one of ordinary skill in the art at the time of applicant's invention for the transaction data to include a transaction number, the transaction number enabling the consumer to confirm with the state agency whether the transaction has been properly reported, with the motivation of showing that the tax data was completely processed at the state agency" (Office Action, page 5, lines 3-7); and

(2) "It is obvious to confirm that a wire transfer is completed since for wire transactions, confirmation of receipt of payment is always done, and also since the tax data [including sums of the tax data] is stored under the merchants tax identification number, this suggests that the sums wired can be confirmed through access of the tax identification number." (Office Action, page 11, lines 19-23). Applicant respectfully submits that these contentions are unsupported by either Cretzler or Golden.

Cretzler teaches that the point-of-sale "terminals identify each merchant by the merchant's assigned tax identification number, receive and store sales tax collection information from the daily transactions of the identified merchant, and totals the daily sum of collected taxes by the merchant who is required to remit such taxes to the appropriate taxing authority." (Cretzler, col. 2, lines 26-31 (emphasis added)). In Cretzler, "[f]or cash transactions, a bank computer at a merchant bank receives the tax collection information from the merchant, and in response thereto, wire transfers the collected sums" to the appropriate taxing authority, and "[f]or credit or debit

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transactions, a service computer at the bank of the customer receives the tax collection information from the merchant, and in response thereto, wire transfers the credited or debited taxes to the appropriate taxing authority. (Cretzler, col. 2, lines 31-40 (emphasis added).)

Applicant submits that the computers at merchant/service banks in the system of Cretzler wire electronic funds to the taxing authority based on calculated totals for all daily transactions. Cretzler does not teach or suggest that merchant/service banks provide the taxing authority with transaction information including "a transaction number associated with and identifying" each transaction taking place on a given day between the consumer and the merchant. Accordingly, even if an individual consumer had a transaction number and access (usually not provided) to the tax identification number of a merchant and/or retailer and logged into the computer system of the taxing authority (i.e., state agency) described in Cretzler, the consumer would not be able to "input said transaction number to said computer system and receive confirmation from the state agency whether the transaction associated with and identified by said transaction number has been properly reported" as recited in Applicant's claimed invention.

In discussing confirmation by the consumer of the state agency's receipt of the transaction, the Examiner refers to Cretzler, col. 4, lines 44-47. (Office Action, page 7, line 4). This passage teaches that the merchant can enter "the authorization code and tax information on a debit receipt," which is presumably given to the consumer. Applicant submits that even if the consumer had a receipt reflecting his transaction with the merchant, the consumer would not be able to confirm that his or her transaction has been reported. This is because the taxing authority's computer in the system of Cretzler does not receive from the service/merchant bank's transaction information identifying by number each transaction between a customer and a merchant. Instead, the taxing authority simply receives electronic funds representing taxes based on totals calculated from all daily transactions. Moreover, confirmation that a wire transfer of the monies was completed for the total use tax paid for all daily transactions would not identify individual transactions for a specific consumer. The Examiner has not pointed

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to any disclosure in either Cretzler or Golden that teaches or suggests otherwise.

The Examiner further contends that "Golden discloses the printing of an official customer receipt reflecting both the transaction and the tax, and including special coding indicating it is an official tax receipt." (Office Action, page 25, lines 12-14, *citing* Golden, col. 7, line 52 through col. 8, line 11). Golden teaches that "[p]referably, point of sale terminal 16 is in communication with a printer 22, which is operative to print an official customer receipt 24 reflecting both the transaction and the tax. In addition, the receipt 24 may include special coding or design elements indicating it is an official tax receipt." (Golden, col. 7, lines 52-56; (emphasis added)). Golden does not teach or suggest that official customer receipt 24 includes "a transaction number associated with and identifying the transaction" as recited in independent claims 1, 9, and 17. (See, e.g., Golden, FIG. 1, reference numeral 24).

Golden further teaches that,

"Since the present system can operate to generate an official receipt for all taxable transactions, consumers will expect to receive a receipt from each transaction. Thus, if a customer does not receive the official receipt, the customer may suspect that the merchant, or an employee of the merchant, has not entered the transaction in the reporting system, either for the purpose of evading payment of the transaction tax, or because of outright theft.

It is contemplated that, when the system of the present invention is implemented within a taxing authority, the appropriate governmental entity will pass the statutes and regulations necessary to ensure compliance. Such a legal mechanism preferably would include a system for receiving consumer reports of failure to receive an official tax receipt for a transaction. Thus, the official receipt 24 can provide another level of compliance and ensure that merchants and their employees will not circumvent the system by failing to enter the appropriate information therein. Again, the system 10 will provide advantageous [sic] to a merchant since it will help deter theft by employees, especially when compliance is enforced by the official tax receipt 24."

(Golden, col. 7, line 57 through col. 8, line 11 (emphasis added)).

Applicant submits that in Golden, the merchant's failure to provide the consumer with an official receipt for the transaction would indicate to the consumer that the merchant may not have entered the transaction into the reporting system. Thus, a

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consumer who does not receive an official receipt from the merchant could report this impropriety to the appropriate governmental entity. The governmental entity will then be able to ensure the merchant's compliance with the reporting statutes. Accordingly, there is no need for a consumer in the system of Golden to log into the state taxing authority's computer system and check whether his or her specific transaction data has been reported. Moreover, even if the system of Cretzler were to be modified in view of Golden to include official receipts, the taxing authority's computer in the system of Cretzler, as discussed above, receives electronic funds but does not receive from the service/merchant banks transaction information identifying by number each transaction between a customer and a merchant. Thus, even if the consumer in the system of Cretzler were to receive an "official receipt" as taught by Golden, the consumer would be unable to log into the state agency's computer system and receive confirmation from the state agency whether his or her transaction has been properly reported by the merchant.

Applicant submits that the combination of Cretzler and Golden as proposed by the Examiner does not teach or suggest each and every element of independent claims 1, 9, and 17, as now amended. Accordingly, Applicant submits that the Examiner's rejection of claims 1-27 under 35 U.S.C. § 103(a) based on Cretzler and Golden has been overcome.

Applicant submits that amended independent claims 1, 9, and 17 are patentable and that dependent claims 2-8 and 10-16, and 18-27 dependent from one of independent claims 1, 9, and 17, or claims dependent therefrom, are patentable at least due to their dependency from an allowable independent claim.

In view of the foregoing remarks, it is respectfully submitted that the claims, as amended, are patentable. Therefore, it is requested that the Examiner reconsider the outstanding rejections in view of the preceding comments. Issuance of a timely Notice of Allowance of the claims is earnestly solicited.

To the extent any extension of time under 37 C.F.R. § 1.136 is required to obtain entry of this reply, such extension is hereby respectfully requested. If there are any fees due under 37 C.F.R. §§ 1.16 or 1.17 which are not enclosed herewith, including

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any fees required for an extension of time under 37 C.F.R. § 1.136, please charge such fees to our Deposit Account No. 50-1068.

Respectfully submitted,
MARTIN & FERRARO, LLP

Dated: November 14, 2009

By: _____


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